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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,547	03/01/2004	Wilma Albert	ZTP01P15112	3285
24131	7590	11/18/2005	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/791,547	ALBERT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-5,9,11,14,15,17,18,24 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5,9,11,14,15,17,18 and 24 is/are allowed.
- 6) ☒ Claim(s) 34-39 and 42 is/are rejected.
- 7) ☒ Claim(s) 40 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)          |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. <u>2005/1114</u>                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 38, 39 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by German patent to Fleischer et al. (cited previously).

3. Fleischer et al. discloses a vacuum cleaner, comprising an appliance housing 1 defining a dust collection compartment; a cover 9 coupled to the housing and movable between an open condition, in which the dust collection compartment is exposed, and a closed condition, in which the cover closes the dust collection compartment; and a fixture 2 coupled to the housing and including a locking member 5, the fixture being movable between a locked condition (shown in phantom), in which the locking member restricts the cover from moving to the closed condition, and an unlocked condition, in which the locking member permits the cover to move to the closed condition. The locking member includes a projection 13 extending between the cover and the appliance housing in the locked condition to restrict the cover from moving to the closed condition. Additionally, Fleischer et al. discloses a spring 8 biasing the fixture toward the locked condition.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent to Matsushita in view of Lindquist (both cited previously).

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8. The patent to Matsushita Electric discloses a vacuum cleaner with an instrument housing 12 defining a dust collection compartment therein and having a movable cover 15, a dust collector to be inserted into the housing comprising a dust bag 13 inserted into the dust collection compartment and closed by the cover, said dust bag having: a reinforcing plate 18 having an underside; a clip (lower tongue portions- see figure 4) disposed on said underside of said reinforcing plate and a pivotable fixture 19 operatively connected to said reinforcing plate, said fixture having lateral guide strips (see figures 7 and 8). Matsushita Electric also discloses the clip having lateral recesses (see figure 4). Matsushita Electric does not disclose the cover having an air inlet connector. Rather the air inlet connector 24 is on the body of the cleaner. The patent to Lindquist discloses a vacuum cleaner similar in construction to that of Matsushita and further discloses the cover 17 having an air inlet connector 18. Therefore, because these two types of covers and air inlet connectors were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the cover (without the inlet connector) of Matsushita for a cover with the air inlet connector in view of the teaching of Lindquist.

9. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita, as modified by Lindquist, as applied to claim 34 above, and further in view of Johansson.

10. Matsushita, as modified by Lindquist, does not disclose the air inlet opening has a straight edge in said lower part. The patent to Johanssen discloses a filter bag and reinforcing member that has a lower part 7 (Figure 1) that is made of a resilient material and has a straight edge parallel to the upper edge of the reinforcing member. It would have been obvious to a

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person skilled in the art at the time the invention was made to provide the reinforcing member of Matsushita, as modified by Lindquist, with a straight resilient member on the lower part in view of the teaching of Johanssen in order to lock the filter bag onto the inlet tube, (see column 1, lines 20-25). As modified, the device of Matsushita, as modified by Lindquist, would have the air inlet connector engaging the at least one straight edge to move the reinforcing plate downwardly with respect to the fixture in response the cover moving toward the closed condition.

### *Response to Arguments*

11. Applicant's arguments with respect to claims 34-42 have been considered but are moot in view of the new ground(s) of rejection.

12. It should be noted that claims 34-42 are new claims.

### *Conclusion*

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

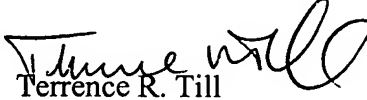
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Terrence R. Till  
Primary Examiner  
Art Unit 1744

trt